IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
MAR 13 2020
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

Magnesium Machine, LLC et al.,	)	
	)	Case No. 1:19-cv-2818
Plaintiffs,	)	
	)	Judge Donald C. Nugent
vs.	)	
	)	
Terves LLC et al.,	)	**[FILED UNDER SEAL]**
	)	
Defendants.	)	

Terves' Submission of Proposed Findings of Fact and Conclusions of Law Dissolving Temporary Ex Parte Seizure Order

Plaintiffs Magnesium Machine, LLC, Magnesium Holdings, LLC, and Paramount Design, LLC (collectively, "MMP") have asked the Court to enter additional Rule 52 findings of fact and conclusions of law in further support of the Court's December 19, 2019 Order (ECF #15) dissolving the ex parte seizure order in this case.

Defendant Terves LLC does not believe that Rule 52 findings and conclusions are required because the ex parte seizure order was not an injunction. *See* Fed. R. Civ. P. 52(a)(2) (requiring findings and conclusions for order on "interlocutory injunction"). To the extent the ex parte seizure order included a temporary restraining order, that order expired by its own terms, and by operation of Rule 65, 14 days later, on January 1, 2020. (*See* ECF #12 at pp. 2-3; Fed. R. Civ. P. 65(b)(2).)

Nonetheless, if Rule 52 did apply, then the Court's rulings from the bench on Dec. 19, 2019, and in its subsequent written order on Dec. 19 (ECF #15) are detailed enough to satisfy Rule 52's requirements. *See* Fed. R. Civ. P. 52(a)(1) ("the findings and conclusions may be stated on the record after the close of evidence"). When Rule 52 applies, "the judge need only make brief, definite, pertinent findings and conclusions upon the contested matters; there is no necessity for over-elaboration of detail or particularization of facts." Fed. R. Civ. P. 52, Advisory Notes, 1946 Amendment.

Because MMP argues otherwise and is submitting proposed findings and conclusions, Terves offers its own proposed findings and conclusions in the event the Court decides to issue supplemental findings. They are attached as Exhibit A. Terves' proposed factual findings are supported by citations to hearing testimony and undisputed documents.

Therefore, Terves respectfully asks the Court to: (a) not enter any additional findings or conclusions, or (b) adopt Terves' proposals.

Respectfully submitted,

Dated: March 13, 2020

David B. Cupar (OH 0071622)
Matthew J. Cavanagh (OH 0079522)
McDONALD HOPKINS LLC
600 Superior Avenue, East, Ste. 2100
Cleveland, Ohio 44114
t 216.348.5400 | f 216.348.5474
dcupar@mcdonaldhopkins.com
mcavanagh@mcdonaldhopkins.com

Counsel for Terves LLC

Certificate of Service

I hereby certify that, on March 13, 2020, I served the foregoing by email upon:

Evan Talley
etalley@dunlapcodding.com

Steven Forbes
sforbes@norchilaw.com

Counsel for Ecometal Inc. and Nick Yuan

Counsel for Terves LLC

{8697100: }